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Creditor-Debtor Law—Wage Garnishment in Washington: A Postscript—Washington's New Garnishment Statute.—Ch. 264, Wash. Laws of 1969 and Ch. 61, Wash. Laws of 1970 (RCW Ch. 7.33)

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CREDITOR-DEBTOR LAW—WAGE GARNISHMENT IN WASHINGTON: A POSTSCRIPT—WASHINGTON'S NEW GARNISHMENT STATUTE.—Ch. 264, Wash. Laws of 1969 and Ch. 61, Wash. Laws of 1970 (RCW Ch. 7.33).

In recent years, the legal literature has been full of critical studies of the process of wage garnishment.¹ The object of these studies, the writ of garnishment, has a long ancestry in English common law,² but since colonial days the writ has been a creature of statute in the United States.³ While writs of attachment and garnishment had frequently been deemed necessary to obtain jurisdiction over disputes,⁴ judicial acceptance of broadened concepts of personal jurisdiction and the widespread use of long-arm statutes⁵ have greatly diminished this need. The principal use of garnishment today is to insure the collectibility of claims, by providing a fund out of which judgments may be satisfied.⁶

Briefly, garnishment can be described as a process by which a plaintiff or a judgment creditor obtains control over the property of

1. See, e.g., Brunn, *Wage Garnishment in California—A Study and Recommendations*, 53 CALIF. L. REV. 1214 (1965) [hereinafter cited as Brunn]; Kerr, *Wage Garnishment Should be Prohibited*, 2 PROSPECTUS 371 (1969); Project, *Wage Garnishment in Washington—An Empirical Study*, 43 WASH. L. REV. 743 (1968) [hereinafter cited as *Empirical Study*]; Note, *Wage Garnishment as a Collection Device*, 1967 WIS. L. REV. 759 (1967); Note, *Garnishment in Kentucky—Some Defects*, 45 KY. L.J. 322 (1957).

2. Mussman & Riesenfeld, *Garnishment and Bankruptcy*, 27 MINN. L. REV. 1, 7-8 (1942). The authors state:

[G]arnishment proceedings . . . are truly blue-blooded legal institutions that can claim a family tree dating back to the Middle Ages. For they are the offspring of the institute of "foreign attachment" which was well-developed in the customs of the medieval boroughs in England. . . .

3. *Sanders v. Armour Fertilizer Works*, 292 U.S. 190, 208 (1934) (Cardozo, J., dissenting).

4. See *Harris v. Balk*, 198 U.S. 215 (1905) (garnishment used to acquire quasi-in rem jurisdiction); Beale, *The Exercise of Jurisdiction in Rem to Compel Payment of a Debt*, 27 HARV. L. REV. 107 (1913).

5. See 43 WASH. L. REV. 833 (1968). The Washington long-arm provisions are found in WASH. REV. CODE §§ 4.28.180, 4.28.185 (1959).

6. The use of court-ordered execution process upon the property of a defendant after the plaintiff has obtained a judgment raises no particular constitutional or policy problems. In *Endicott Johnson Corp. v. Encyclopedia Press*, 266 U.S. 285 (1924), it was held that the due process clause would not require notice prior to a postjudgment garnishment, since the defendant had been given notice and opportunity to be heard in the underlying action.

There appears to be no good reason why a judgment creditor should be unable to use garnishment and attachment to enforce his judgments. Prejudgment seizures, however, present entirely different policy considerations. See notes 44-47 and accompanying text, *infra*.

a defendant which is in the possession of a third party, providing for the holding by the court of the property pending the outcome of a suit or the payment to the creditor of the judgment obligation. Generally a creditor can obtain a writ in either of two ways. If the creditor has already obtained a judgment, he can present the judgment to the court clerk to evidence the obligation, and request issuance of the writ against some party who holds the debtor's property, often an employer holding unpaid wages. A creditor might also obtain a prejudgment writ when he sues for a debt and can show some circumstances justifying seizure of the debtor's property prior to judgment.⁷

Although garnishment has been defended by creditors as a necessary legal tool to insure that credit can be made widely available to consumers,⁸ a number of studies have shown the process to have become an "extraordinary remedy run amuck,"⁹ subject to substantial abuse by creditors seeking a means of collecting delinquent and often disputed and even nonexistent obligations.¹⁰ Relatively unchecked use of the garnishment process, particularly prejudgment garnishments, had reached nearly epidemic proportions in some states, and it appeared that wage garnishment, or the threat of it, was the principal weapon of many collection companies in coercing payment from debtors heavily reliant on their paychecks for subsistence.¹¹ What made

7. Under the former garnishment statutes, ch. 56, § 1 [1893] Wash. Sess. Laws and ch. 109, § 1 [1913], the creditor could obtain a prejudgment writ simply by bringing suit for a debt and alleging that the debt was due and unpaid, and by affirming that the writ was not sought to injure the defendant or garnishee.

8. See Brunn, *supra* note 1, at 1239-40. This argument of creditors may not be supportable by the empirical data. The Brunn study points out that there appears to be no correlation between the availability of garnishment to creditors, and the availability of credit to consumers. States having lenient garnishment laws, where garnishment is easily obtained, show about the same percentage of installment debt relative to total retail sales as do states having very restrictive garnishment laws.

9. Patterson, *Foreward: Wage Garnishment—An Extraordinary Remedy Run Amuck*, 43 WASH. LAW REV. 735 (1968); See note 1, *supra*.

10. See Statement of Pat Greathouse, United Auto Workers Vice President, *Hearings on H.R. 11601 Before the Subcomm. on Consumer Affairs of the Comm. on Banking and Currency*, 90th Cong., 1st Sess. at 803, 806 (1967) [Hereinafter cited as *Hearings*]; Statement of I. W. Abel, United Steelworkers President, *Hearings* 753, 757; Statement of Dr. David Caplovitz, *Hearings* 661.

11. Statement of Pat Greathouse:

The statistics on the extent of garnishment are staggering. In just one court alone in the city of Detroit, the common pleas court, 55,000 garnishments were issued in 1966. . . . A revealing study conducted among low-income families in New York City uncovered the fact that one out of every five families interviewed had been threatened with garnishment, had their wages garnished, or had goods repossessed.

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this practice particularly subject to criticism was the fact that, unlike many abusive and predatory practices plaguing consumers, garnishment is a state-run process, a creature of legislation administered by the courts.¹²

An extensive study of the wage garnishment problem in Washington was made by members of the *Washington Law Review* in 1968.¹³ In the study, the then-existing garnishment statutes¹⁴ were analyzed in terms of their constitutionality and in terms of the policy considerations which the statutes represented or failed to represent. A number of recommendations were made for legislative reform of the garnishment process in Washington, particularly in the areas of prejudgment garnishments,¹⁵ enlargement of the wage exemption,¹⁶ and employee discharge provisions.¹⁷

The purpose of this note is to reexamine the practice of wage garnishment in Washington in light of the three major developments in the law since the *Empirical Study*—the enactment by Congress of the Federal Consumer Credit Protection Act,¹⁸ the enactment by the Washington Legislature of a new garnishment act,¹⁹ and the Supreme Court's decision in *Sniadach v. Family Finance Corporation*.²⁰ The major emphasis will be on the Washington Garnishment Act, to determine how it comports with the constitutional restrictions on prejudgment garnishment set forth in *Sniadach*, and to measure its effectiveness as a remedy for the problems which existed in the past.

Typically, low income families faced a major crisis of this type whenever the chief breadwinner became ill or unemployed.

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12. See Brunn, *supra* note 1, at 1215; see also 4 STAN. L. REV. 237 (1952).

13. *Empirical Study*, *supra* note 1.

14. These were found in chapters 7.32 and 12.32 of WASH. REV. CODE. Both chapters were repealed in their entirety by ch. 264, [1969] Wash. Laws, 1st Ex. Sess., now codified as WASH. REV. CODE ch. 7.33 (1969). See ch. 264, § 36 [1969] Wash. Laws, 1st Ex. Sess. for list of session laws specifically revoked thereby.

15. The *Empirical Study* recommended that prejudgment garnishment be abolished. *Empirical Study*, *supra* note 1, at 785.

16. *Id.* at 786.

17. *Id.* at 790.

18. 15 U.S.C. §§ 1671-77 (Supp. V, 1970).

19. Ch. 264, [1969] Wash. Laws, 1st Ex. Sess., as amended by ch. 61, [1970] Wash. Laws, 1st Ex. Sess. (codified as WASH. REV. CODE ch. 7.33 (1970)).

20. 395 U.S. 337 (1969).

I. DEVELOPMENTS IN THE LAW

As a result of the numerous critical garnishment studies and a growing tide of sentiment in favor of consumer protection, Congress enacted Title III of the Consumer Credit Protection Act of 1968,²¹ which became effective July 1, 1970. The Act establishes minimum national standards for the administration of state wage garnishment processes in the areas of wage exemptions²² and employee discharges.²³ The Federal Act specifies that its provisions will apply only to the extent that state laws do not provide standards at least "substantially similar" to the federal standards,²⁴ and its provisions are not to affect more restrictive state garnishment laws.²⁵ As will be seen below, it appears that the Federal Act will not be applicable in Washington, since the 1969 Washington Act provides at least substantially equivalent limitations on garnishment in the areas covered by the Federal Act.²⁶

Perhaps the most significant recent development in garnishment law was the United States Supreme Court's *Sniadach* decision on June 9, 1969, holding that Wisconsin's garnishment statutes, which permitted the prejudgment garnishment of the wages of a Wisconsin resident, violated the fourteenth amendment, and characterizing the prejudgment seizure of wages as a "taking of one's property" without due process of law.²⁷ Although it is unclear whether the *Sniadach* holding invalidates the prejudgment garnishment of assets other than wages,²⁸ it is settled that, except in cases presenting unusual or ex-

21. Consumer Credit Protection Act, 15 U.S.C. §§ 1671-77 (Supp. V, 1970).

22. Consumer Credit Protection Act § 303, 15 U.S.C. § 1673 (Supp. V, 1970).

23. Consumer Credit Protection Act § 304, 15 U.S.C. § 1674 (Supp. V, 1970).

24. Consumer Credit Protection Act § 305, 15 U.S.C. § 1675 (Supp. V, 1970).

25. Consumer Credit Protection Act § 307, 15 U.S.C. § 1677 (Supp. V, 1970).

26. See notes 58-66 and 78-80 and accompanying text, *infra*.

27. 395 U.S. 337, 342 (1969). The holding of course had profound effects on the practice of wage garnishment in states other than Wisconsin, as one author demonstrates:

At the time *Sniadach* was decided, forty-one jurisdictions permitted some sort of prejudgment garnishment of wages. Of these forty-one states, sixteen, including Wisconsin, permitted alleged creditors to deprive workers of their earnings without either a prior hearing or the demonstration of some special circumstances justifying summary relief. It is believed that only the garnishment statutes of these sixteen states [including Washington] were invalidated by the *Sniadach* decision, and even then only to the extent that they were used to reach wages.

Hawkland, *Prejudgment Garnishment of Wages After Sniadach*, 75 COMM. L.J. 5, 7 (1970) (footnotes omitted).

28. For a discussion of the possible ramifications of *Sniadach* in areas other than

ceptional circumstances, the prejudgment garnishment of wages is no longer constitutionally permissible.

The new Washington Garnishment Act, which became effective August 11, 1969, represents a significant modification of the garnishment process in this state, particularly concerning prejudgment garnishments, wage exemptions and employee discharges.²⁹ A 1970 amendment to the 1969 Act reworded the wage exemption provision slightly³⁰ and created a writ of 30 days duration,³¹ changing the scope of the writ created by the 1969 Act.³² Since the Act will be the basis for all garnishments in this state, its provisions should be examined to determine whether they meet the policy and constitutional considerations suggested by the Empirical Study and mandated by *Sniadach*.

II. PREJUDGMENT GARNISHMENT RESTRICTIONS— THE WASHINGTON STATUTE IN LIGHT OF *SNIADACH*

The federal Consumer Credit Protection Act has no provision dealing with prejudgment garnishment,³³ so to the extent that prejudgment writs may constitutionally be issued, they are governed by state law. Section one of the Washington Act provides:³⁴

A writ of garnishment which is not sought in order to satisfy an existing judgment shall not be issued by the clerk . . . against any employer for the purpose of garnishing any earning he owes his employee, unless the plaintiff sues for a debt and the plaintiff believes that the employee:

wage garnishments, see 68 MICH. L. REV. 986 (1970). Two recent U.S. District Court cases indicate that the applicability of *Sniadach* may be quite broad. See *Klim v. Jones*, 315 F. Supp. 109 (N.D. Cal. 1970), striking down California's Innkeepers' Lien statute and *Laprease v. Raymours Furniture Co.*, 39 U.S.L.W. 2082 (N.D.N.Y., July 29, 1970), invalidating a section of New York's Civil Practice Law which permitted the pre-hearing seizure of the household articles of a defaulting installment debtor.

29. WASH. REV. CODE ch. 7.33 (1970).

30. WASH. REV. CODE § 7.33.280 (1970).

31. WASH. REV. CODE § 7.33.370 (1970).

32. WASH. REV. CODE § 7.33.110 (1970).

33. The limited scope of the Act as finally enacted has drawn criticism from some commentators. See 68 MICH. L. REV. 986, 988 (1970) ("[t]his modest provision"); Boyd, *The Federal Consumer Credit Protection Act—A Consumer Perspective*, 45 NOTRE DAME L. 171, 193 (1970) (calling the wage exemption too small, the employee discharge provision too conservative, and criticizing the failure of the Act to cover prejudgment garnishment).

34. WASH. REV. CODE § 7.33.010(2) (1970).

- (a) is not a resident of this state, or is about to move from this state; or
- (b) has concealed himself, absconded, or absented himself so that ordinary process of law cannot be served upon him; or
- (c) has removed or is about to remove any of his property from this state, with intent to delay or defraud his creditors and the plaintiff . . . files an affidavit stating the specific facts upon which his belief is founded and the court pursuant to an ex parte hearing finds that there is sufficient reason to find the belief true.

Determining whether this section passes muster under *Snidach* requires an examination of the Court's language in that decision. Mr. Justice Douglas, for the majority, defined the issue as follows: "In the context of this case the question is whether the *interim freezing* of the wages without a chance to be heard violates procedural due process"³⁵ (emphasis added). The Court answered that question in the affirmative, since the defendant was a resident of the state and "*in personam* jurisdiction was readily obtainable."³⁶

The Court has indicated that in some circumstances it would approve of the summary taking of property without a prior hearing. Summary seizure has been permitted, for example, to protect the public health,³⁷ to protect the economic welfare of depositors,³⁸ and to maintain public confidence in financial institutions.³⁹ In *Snidach* the Court labelled such cases as "extraordinary circumstances" which might justify summary action, but refused to include the collection of consumer debts in that category, stating, "in the present case no situation requiring special protection to a state or creditor interest

35. 395 U.S. 337, 340 (1969). The Court felt that for purposes of due process analysis, an "interim freezing" of wages was a "taking" of property. "A prejudgment garnishment of the Wisconsin type is a taking which may impose a tremendous hardship on wage earners with families to support." *Id.* at 340.

36. *Id.* at 339.

37. *Ewing v. Mytinger & Castleberry, Inc.*, 339 U.S. 594 (1950), upheld seizure of misbranded pharmaceuticals without a prior hearing to insure that such drugs would not be sold to the public. *See also* *North American Cold Storage Co. v. Chicago*, 211 U.S. 306 (1908) (upholding the summary seizure of putrid poultry).

38. *Coffin Bros. v. Bennett*, 277 U.S. 29 (1928) (upholding a statute which authorized the prejudgment attachment of the property of stockholders of insolvent banks, to prevent fraud on depositors and creditors).

39. *Fahey v. Mallonee*, 332 U.S. 245 (1947) (upholding a statute dealing with the pre-hearing appointment of conservators to take possession of federally insured savings and loan institutions).

is presented by the facts; nor is the Wisconsin statute narrowly drawn to meet any such unusual conditions."⁴⁰ In addition, the Court emphasized the unique nature of wages which strongly militated against their summary attachment.⁴¹

While the language of the opinion suggests that the Court employed a "balancing test" in determining whether creditor interests in obtaining summary relief outweighed the debtor's due process right to notice and opportunity to be heard, the Court can be criticized for not adequately articulating what the creditor interests were, or how, on related issues, future courts might determine how the relative interests should be balanced.⁴² The majority opinion would be considerably more useful to the lower courts if Mr. Justice Douglas had more carefully indicated what sort of "narrowly drawn" statute permitting the "interim freezing" of wages prior to a hearing would satisfy due process requirements. The Court's heavy emphasis on the uniqueness of wages might suggest that no prejudgment wage garnishment statute could be constitutional on its face, since few statutes could be written narrowly enough to cover only the truly unusual case. It is in this context that Washington's prejudgment garnishment statute must be examined.

The three exceptions to the general prohibitions on prejudgment wage garnishments in the Washington Act⁴³ would permit summary action against any non-resident, a debtor who is absconding or hiding

40. 395 U.S. 337, 339 (1969).

41. In *Sniadach*, the Court discussed the nature of wages as follows:

A procedural rule that may satisfy due process for attachments in general . . . does not necessarily satisfy procedural due process in every case. The fact that a procedure would pass muster under a feudal regime does not mean it gives necessary protection to all property in its modern forms. We deal here with wages—a specialized type of property presenting distinct problems in our economic system.

395 U.S. 337, 340 (1969).

42. The majority is roundly criticized for its "emotional rhetoric" and method of analysis by Mr. Justice Black, who argued that the "Due Process Clause of the Fourteenth Amendment contains no words that indicate that this Court has power to play so fast and loose with state laws." 395 U.S. at 344 (Black, J., dissenting). See also 68 MICH. L. REV. 986, 988 (1970):

Indeed, the majority opinion does appear to be quite heavily underscored by a value judgment concerning the impropriety of such garnishment. Thus, it is arguable that, while the Court claimed to base its decision solely on grounds of a denial of procedural due process, it was also motivated by the old concept of substantive due process.

43. WASH. REV. CODE § 7.33.010(2) (1970). See text accompanying note 34, *supra*.

from the process-server, or a debtor who conceals or removes his assets to defraud his creditors. While the new prejudgment garnishment section is a considerable improvement over the former statute under which a creditor could obtain a prejudgment wage garnishment merely by filing a complaint accompanied by a form affidavit stating that the debt was actually due and that the plaintiff did not sue to injure the defendant,⁴⁴ it is not entirely free of defects. First, while it appears that the absconding debtor and the debtor who fraudulently hides or removes his property would fall under the *Sniadach* "unusual circumstances" exception, it is not clear why non-residency by itself should be considered sufficient justification for issuing a prejudgment writ. The term "non-resident" is not defined in the Act, and could arguably mean either a non-domiciliary or a person who is not living in the state. There can be no justification, however, for allowing the extraordinary prejudgment wage garnishment remedy against *any* person who is regularly present in the state to earn his living, since in personam jurisdiction can be readily obtained over him.⁴⁵ Since the Court in *Sniadach* condemned the prejudgment garnishment of the wages of any person who was readily available for personal service of process,⁴⁶ the Washington statute would seem to be unconstitutional whether or not "non-resident" is read broadly to mean non-domiciliary. Furthermore, since the following section, which covers "the employee who has concealed himself, absconded, or absented himself so that ordinary process of law cannot be served upon him,"⁴⁷ would cover the defendant who has left the state, the subsection allowing such process against the "non-resident, or one who is about to leave the state" should be deleted.⁴⁸ The defendant who is about to leave can

44. See *Empirical Study*, *supra* note 1, at 747.

45. In *Harris v. Balk*, 198 U.S. 215 (1905), it was not the residency of the debtor which the Court considered determinative when it allowed the prejudgment garnishment of a debt owed him by a debtor who was in the state but the inability of the state to obtain jurisdiction over the defendant. Obtaining personal jurisdiction over a non-resident defendant is considerably less difficult under modern long arm statutes than it was in the days of *Harris v. Balk*. Consequently, it is submitted that a state law which permits prejudgment attachment or garnishment in any case other than a case involving inability of a plaintiff to obtain in personam jurisdiction is violative of due process guarantees, unless fraud is involved.

46. See note 36 and accompanying text, *supra*.

47. WASH. REV. CODE § 7.33.010(2)(b) (1970).

48. WASH. REV. CODE § 7.33.010(2)(a) (1970).

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be personally served before he leaves, and there appears to be no justification for allowing prejudgment garnishment of his wages unless it can be shown, in addition, that he is leaving with the intent of avoiding his creditors. To fall within the permissible limits of *Sniadach* a prejudgment wage garnishment statute may cover only the exceptional case—the wrongdoer who absconds or hides his property or the person over whom *in personam* jurisdiction cannot be readily obtained. “Non-residency” is too all-encompassing a term to fall within these limits.

Another potential problem with the prejudgment garnishment section is that it permits a creditor who “believes” that his debtor is hiding, leaving the state, or concealing his property to obtain a prejudgment writ by presenting an affidavit containing his beliefs at an *ex parte* hearing. The provision might appear to be a loophole through which creditors could evade the Act’s general restriction on prejudgment writs by painting a one-sided picture of the debtor as a person who is wrongfully avoiding his obligation, thereby giving the court grounds to issue a prejudgment writ. Nor is there any “challenge procedure” to allow the defendant to rebut the plaintiff’s allegations. It would indeed be unfortunate if the prohibition on prejudgment garnishments could be so easily subverted.⁴⁹

This apparent loophole may, in practice, not exist, as it appears unlikely that the courts will permit such subversion of the garnishment statute.⁵⁰ One commentator has observed:⁵¹

Although prejudgment garnishment without prior notice or hearing may be constitutionally permissible in some situations, its use as a device to reach a debtor’s wages has been practically elimi-

49. Such creation of loopholes is sometimes inadvertent, as the legislature attempts to set up what appears to be an adequate procedure, without examining abuses which persisted and flourished in the past. The Supreme Court itself, in *Camara v. Municipal Court*, 387 U.S. 523 (1967), and *See v. City of Seattle*, 387 U.S. 541 (1967), created a procedure for obtaining building search warrants under which abuses were predictable. See the dissenting opinion of Mr. Justice Clark, 387 U.S. at 546. See also 1967 UTAH L. REV. 589, 596.

50. The courts have had sufficient experience with the abusive use of garnishment process by creditors in the past, and appear unlikely to allow the new procedure to be misused. See notes 51, 52, and 73 and accompanying text, *infra*.

51. Hawkland, *Prejudgment Garnishment of Wages After Sniadach*, 75 COMM. L.J. 5, 6 (1970).

nated by *Sniadach* because wages are not the kind of debt usually owed to a non resident and wage earners are not likely to abscond and leave their jobs to avoid paying their debts.

Thus, it would appear that where the wage earner is concerned, a creditor's notions or beliefs about the non-residency of the debtor (if that alone can ever be sufficient grounds for prejudgment garnishment), or about the likelihood of his debtor absconding, should be viewed with a high degree of suspicion. Furthermore, the history of the improper use of wage garnishment by a large number of unscrupulous creditors has created a "credibility gap" of major proportions where creditor allegations are concerned. A former justice court judge has observed:⁵²

Experience in the writer's court indicates that . . . [t]here are some collection companies that seem utterly incapable of filing a complaint that is supportable in full by the evidence. Nor is there any indication that plaintiffs are more virtuous than defendants.

It therefore appears that it would be an unlikely occurrence when a Washington court would or should grant a prejudgment writ of garnishment against a debtor's wages, in spite of some apparent laxity built into the statute.

This conclusion is buttressed by empirical data from the Seattle District Justice Court. The statistics show that in the six months prior to the passage of the 1969 Act, the average monthly civil caseload of the Seattle District Justice Court was 1,838 cases, of which 1,172 involved writs of garnishment. Of these 1,172 garnishments issued, 684, or 58.4% were prejudgment writs.⁵³ Since the passage of the Act, the civil caseload has dropped significantly. Whereas before the Act's passage, garnishments were involved in 64% of the court's cases, garnishments have since accounted for less than 40% of the court's caseload.⁵⁴ Most significantly, the prejudgment writ of garnishment has

52. Patterson, *supra* note 9, at 740 .

53. Data provided by Mrs. Mary Hay, Chief Civil Clerk, Seattle District Justice Court.

54. The following table will illustrate the effect of *Sniadach* and the 1969 Washington Garnishment Act on the volume of garnishments issued by the Seattle District Justice Court.

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virtually disappeared from the scene. Between July 1, 1969⁵⁵ and June 30, 1970, the Seattle District Justice Court has issued 5,096 writs of garnishment; only 48, or less than one per cent, were issued prior to judgment, and it appears that not one of these involved wages.⁵⁶

Thus, it appears that the prejudgment garnishment of wages in Washington may have become a thing of the past. The 1969 Act, not adequately rigorous on its face, is being interpreted quite narrowly, in

SUMMARY OF GARNISHMENT PROCEEDINGS SEATTLE DISTRICT JUSTICE COURT
January 1969 to July 1970

Month	Total Civil Caseload	Total Garnishments Issued	Prejudgment	Postjudgment
Jan. 1969	1,723	1,209	689	520
Feb. 1969	1,779	1,169	736	433
Mar. 1969	1,917	1,201	714	487
Apr. 1969	2,080	1,148	646	502
May 1969	1,690	1,131	632	499
Jun. 1969*	1,332	730	176	554
Jul. 1969	1,521	681	0	681
Aug. 1969**	1,234	437	2	435
Sept. 1969	1,203	380	0	380
Oct. 1969	1,258	459	0	459
Nov. 1969	1,017	374	0	374
Dec. 1969	1,012	315	9	306
Jan. 1970	1,198	388	3	385
Feb. 1970	1,083	354	3	351
Mar. 1970	1,180	379	5	374
Apr. 1970	1,258	442	12	430
May 1970	1,008	450	4	446
Jun. 1970	1,181	417	10	407

Source:

Monthly Reports, Seattle District Justice Court

Notes:

*June 9, 1969 (U.S. Supreme Court decided *Sniadach*).

**August 11, 1969 (Washington Garnishment Act went into effect).

55. Although the 1969 Washington Garnishment Act did not go into effect until August 11, 1969, the Justice Courts stopped issuing prejudgment writs immediately after *Sniadach* was decided on June 9 of that year. This accounts for the sharp drop in prejudgment writs issued during June of 1969, and subsequently. Also notable from the table in note 54, *supra*, is the fact that there was a noticeable decrease in postjudgment garnishments after the 1969 Act became effective. Seattle Justice Court Judge Lewis suggested that this is at least partially attributable to the imposition of a ten dollar fee which the plaintiff must send to the garnishee employer (presumably to cover the garnishee's costs), as required by section 13 of the Act, to perfect service of the writ. Since some creditors were garnishing for quite small amounts, the payment of the fee made garnishment of such small amounts unprofitable. Interview with Seattle District Court Judge Bill Lewis, in Seattle, July 31, 1970.

56. Interview with Seattle District Court Judge Lewis, in Seattle, July 31, 1970.

harmony with the spirit of *Sniadach*, to effectively prevent the "grave injustices made possible by prejudgment garnishment whereby the sole opportunity to be heard comes after the taking."⁵⁷

III. WASHINGTON WAGE EXEMPTION PROVISIONS

It was suggested in the *Empirical Study* that the low wage exemption of the former garnishment procedure contributed to its frequent use by creditors as a "club" to obtain quick settlements by debtors.⁵⁸ Under the now-repealed Washington wage exemption statute,⁵⁹ the minimum exemption from wage garnishment was \$35 per week; the maximum was \$50 per week. The 1969 Act broadened the wage exemption considerably; the amount of an employee's wage now exempt from garnishment equals either forty times the state minimum wage,⁶⁰ or seventy five per cent of the total disposable earnings due to the employee, whichever is larger.⁶¹

In setting the amount of the wage exemption, the Legislature rejected the recommendation of the *Empirical Study* for an 85 per cent rate,⁶² settling instead on the seventy five per cent level adopted by Congress in the Consumer Credit Protection Act. The Federal Act provides a minimum wage figure, equaling thirty times the federal minimum wage, currently \$1.60 per hour, beneath which no wages may be subjected to garnishment.⁶³ Whatever the merits of various proposed

57. 395 U.S. at 340. It was feared, before examining the Justice Court data, that creditors might begin a wholesale campaign to obtain prejudgment garnishments against bank accounts. The Arizona Supreme Court, in *Termpian Inc. v. Superior Court*, 105 Ariz. 270, 463 P.2d 68 (1969), read *Sniadach* narrowly, as covering the prejudgment garnishment of wages only. Such a reading of *Sniadach* might be possible, mainly because of the majority opinion's emphasis on the uniqueness of wages, and its failure to discuss adequately the need of a debtor for a subsistence fund, whatever its nature. If the needs of the debtor for such a fund are considered, however, an attempt to distinguish unpaid wages and just-paid wages placed on deposit in a bank as different kinds of assets would be logically impossible.

58. *Empirical Study*, *supra* note 1, at 752; See also 43 IOWA L. REV. 555 (1958).

59. Ch. 13, § 1 [1963] Wash. Sess. Laws (repealed 1969).

60. The current state minimum hourly wage is \$1.60. WASH. REV. CODE § 49.46.020 (1970).

61. WASH. REV. CODE § 7.33.280 (1970).

62. *Empirical Study*, *supra* note 1, at 785-88. This is also the exemption adopted in Illinois. ILL. ANN. STAT. ch. 62, § 73 (Smith-Hurd Supp. 1970).

63. 15 U.S.C. § 1673 (Supp. V, 1970). The minimum exemption, annualized, under the federal act would be \$2,496; under the Washington act, \$3,328. Of course, using the percentage formulas in either act will work dollar exemptions larger than the minimum exemption, but only for higher income debtors.

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wage exemptions,⁶⁴ it is notable that the exemptions under the Washington Act are equal to or larger than the exemptions under the Federal Act. While both the federal and Washington acts exempt seventy five per cent of disposable income, the Washington Act provides a higher *minimum* wage level which is totally exempt from garnishment. Under the Federal Act, thirty times the federal minimum wage, or \$48, would be the minimum wage exemption. By comparison, the Washington minimum wage exemption is now forty times the state minimum wage, or \$64. For debtors with weekly disposable earnings between the \$48 and the \$80 level, the Washington Act provides a higher *effective* exemption rate, approaching, at least for the low income debtor, the rate recommended by the *Empirical Study*.⁶⁵ Since the Washington Act provides for more limited garnishments than the federal Consumer

64. The *Empirical Study* noted that no one formula, even a fixed percentage formula, would operate equitably at all income levels, since the low income family spends a higher percentage of its income for necessities than would a higher income family. Thus, a fixed percentage exemption which is fair to low income debtors would appear to be ridiculously high when applied to the high income debtor. *Empirical Study*, *supra* note 1, at 787.

65. The following tables show the wage exemptions available to garnishment debtors under the federal and state acts. The exemptions are computed as discussed in the text.

FEDERAL ACT

Weekly Wage*	Maximum Exemption	Amount Subject to Garnishment	Effective Exemption Rate
\$40	\$48.00	0	100%
\$50	\$48.00	\$ 2.00	96%
\$60	\$48.00	\$12.00	80%
\$70	\$52.50	\$17.50	75%
\$80	\$60.00	\$20.00	75%
\$85	\$63.75	\$21.25	75%
\$100	\$75.00	\$25.00	75%
\$120	\$90.00	\$30.00	75%

WASHINGTON ACT

\$40	\$64.00	0	100%
\$50	\$64.00	0	100%
\$60	\$64.00	0	100%
\$70	\$64.00	\$ 6.00	91.4%
\$80	\$64.00	\$16.00	80%
\$85	\$64.00	\$21.00	75.3%
\$100	\$75.00	\$25.00	75%
\$120	\$90.00	\$30.00	75%

* Note: the weekly wage, upon which these figures are based, is the "disposable earnings" figure, determined by deducting from the gross earnings figure those amounts "required by law to be deducted." See 15 U.S.C. § 1672 (Supp. V, 1970) and WASH. REV. CODE § 7.33.280 (Supp. 1970).

Credit Protection Act, the Washington provision should be controlling.⁶⁶ The enlargement of the wage exemption in garnishment actions is a recognition of the desirability of permitting a debtor to maintain a reasonable minimum standard of living while at the same time insuring that his creditors have some fund available to obtain satisfaction of judgment obligations.⁶⁷

A further notable improvement in Washington is the statutory language making the wage exemption automatic.⁶⁸ The *Empirical Study* reported that under the former statute the exemption,⁶⁹ which was available only upon request, was claimed in only 7% of all garnishment actions.⁷⁰ Since few debtors were aware that such exemptions were available to them,⁷¹ the inclusion of a provision making the wage exemption automatic should be considered a necessary safeguard and a commendable addition.⁷²

IV. WASHINGTON EMPLOYEE DISCHARGE PROVISIONS

Another frequent criticism of state garnishment laws was that they permitted the employer practice of discharging employees whose wages had been garnished. Creditors, aware of this practice, often employed the threat of garnishment as a highly effective means of collecting

66. 15 U.S.C. § 1677 (Supp. V, 1970).

67. See Rombauer, *Debtors' Exemption Statutes—Revision Ideas*, 36 WASH. L. REV. 484, 500 (1961).

68. "Unless directed otherwise by the court, the garnishee shall determine and deduct the amount exempt under this section and shall pay this amount to the defendant." WASH. REV. CODE § 7.33.280 (1970).

69. Ch. 13, § 1 [1963] Wash. Sess. Laws (repealed 1969).

70. *Empirical Study*, *supra* note 1, at 748.

71. *Id.*; see Lee, *An Analysis of Kentucky's New Exemption Law*, 55 KY. L.J. 618 (1967).

72. Judge Lewis observed that even the number of postjudgment writs might be reduced if defendants were somehow made aware of their rights. More than half of the defendants in creditor actions allow default judgments to be entered against them. Although it is impossible to determine how many actions involve defendants who could assert a valid defense to the debt, it appears clearly from studies on the use of the legal collection machinery by a number of marginally honest merchants, that there is a good probability that a significant number of creditor suits involve such defendants.

Judge Lewis suggests that legal pleadings are too imposing and formalistic to be well-understood by poor or uneducated defendants, and that perhaps more defendants would assert defenses if the summons and complaint were written in plainer, more understandable language, making it clear that a defendant who feels that he does not owe the debt complained of, or who disagrees with the amount of the debt claimed by the plaintiff, should come into court and let the fact be known, and not allow a default judgment to be entered. Interview with Seattle District Court Judge Lewis, in Seattle, July 31, 1970.

disputed debts from debtors who would go to any length to protect their jobs.⁷³ By the use of such pressure, many debts which were probably unenforceable in a court of law were collected.⁷⁴ Although it was strongly urged in the hearings on the proposed federal Consumer Credit Protection Act that Congress prohibit employers from discharging their employees because their wages had been garnished,⁷⁵ Congress, in what has been described as a compromise,⁷⁶ provided that no employer may discharge an employee because the employee's wages had been subjected to garnishment "for any one indebtedness."⁷⁷ The Washington Act adopted a provision more favorable to the employee-debtor, prohibiting discharges of employees because of wage garnishment unless the employee's wages have been garnished "on three or more separate indebtednesses" within any twelve month period.⁷⁸ Since the Washington provision is more restrictive than the federal act, the state provision again will control.⁷⁹ The choice of three garnishments as a cutoff point for the operation of the prohibition on employee discharges appears to be a reasonable balancing of the interests of a debt-ridden employee, who might encounter more than one garnishment proceeding against him, by different creditors, resulting from a single financial crisis, and the interests of employers, who often must suffer the bookkeeping costs of processing wage garnishments and the poor work and absenteeism often observed in employees who are going through continual bouts with their creditors.⁸⁰

The provision should also alleviate the problem of the limited duration of the writ, which may cause the same creditor to file several consecutive writs to collect the total amount of his judgment against the debtor.⁸¹ Since an employee cannot be discharged for repeated

73. The state participated in this coercive process by making the garnishment remedy available to creditors without any showing that a prejudgment writ was really necessary or proper. In discussing the laxity of the former garnishment statute Judge Patterson summed up just how one-sided the procedure was: "In effect, then, the state legislature has authorized garnishment solely on the basis that the plaintiff is the plaintiff." Patterson, *supra* note 9, at 740.

74. *Id.* at 740, 741.

75. Testimony of I. W. Abel, United Steelworkers President, *Hearings, supra* note 10, at 753; see also *Hearings* 813.

76. 68 MICH. L. REV. 986, 988 (1970).

77. Consumer Credit Protection Act § 304, 15 U.S.C. § 1674 (Supp. V, 1970).

78. WASH. REV. CODE § 7.33.160 (1970).

79. Consumer Credit Protection Act § 307, 15 U.S.C. § 1677 (Supp. V, 1970).

80. See *Empirical Study, supra* note 1, at 755.

81. Since the Act provision deals with "separate indebtednesses," the employee cannot

garnishment on the same indebtedness, it appears to be of no particular consequence to the debtor whether the writ is short-term or whether it creates a lien which continues until the entire obligation is paid. However, a short-duration writ could be a major nuisance to employers, who must process each writ as it comes in. Presumably the ten-dollar fee⁸² paid by the creditor to the garnishee will cover the costs of processing writs, but they will still remain a major inconvenience, especially to large employers. The *Empirical Study* recommended the creation of a continuing writ, which would pick up non-exempt portions of a debtor's wages for a period of up to 90 days, to alleviate the need for a disturbing number of writs to collect a single debt.⁸³ In the 1969 Act, the legislature created a one-shot writ, which picked up only those wages owed to a defendant at the time the writ was served.⁸⁴ During the 1970 session, however, the Legislature modified the scope of the writ to permit a continuing lien for up to 30 days.⁸⁵ While the creation of this longer duration writ is an improvement it is still recommended that the legislature lengthen the duration of the writ to 90 days, to include in a single writ the majority of judgment obligations.⁸⁶

Section 35 of the 1969 Act (RCW 50.20.045) states that a person who is separated from his employment as a result of garnishment of his wages "shall not be disqualified from receiving unemployment benefits because of such separation."⁸⁷ Ordinarily under Washington law,

be discharged when his creditor files a series of garnishments to satisfy the total obligation owed, since these would all relate to the same indebtedness. Filing a number of garnishments against a debtor for a single indebtedness will be necessary where the wage exemption makes available for garnishment only a small portion of the unpaid judgment obligation. For example, a debtor against whom a total judgment obligation of \$250 is entered, and whose disposable earnings equal \$100 per week, can have only \$25 per week garnished under the wage exemption provision. Since the writ's duration is only 30 days, the creditor must obtain three writs to recover the entire judgment obligation.

82. WASH. REV. CODE § 7.33.130 (1970) requires the creditor to pay the garnishee ten dollars to perfect service of the writ.

83. *Empirical Study*, *supra* note 1, at 789.

84. WASH. REV. CODE § 7.33.110 (1970).

85. Ch. 61, § 7, [1970] Wash. Laws, 1st Ex. Sess., WASH. REV. CODE § 7.33.370 (1970).

86. In the cases surveyed by the *Empirical Study*, the average judgment equalled \$221, including costs. See *Empirical Study*, *supra* note 1, at 796, Table 3. With the 75% wage exemption, only from those debtors whose weekly disposable incomes exceeded \$220 could a sufficient amount be garnished to recover the entire judgment within the 30-day life of the present writ. Since few debtors have \$220 weekly disposable incomes, it is apparent that the 30-day writ is still unrealistically short in duration.

87. Ch. 264, § 35 [1969] Wash. Laws, 1st Ex. Sess., WASH. REV. CODE § 50.20.045 (1970).

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an employee discharged from his employment for "misconduct" would be ineligible for unemployment benefits during the week of his discharge and for up to a maximum of ten weeks.⁸⁸ The applicability of RCW 50.20.045 is made "subject to the provisions of RCW 7.33.160"⁸⁹ which makes a discharge for the reason that the employee's wages were garnished a "wrongful" discharge. While the language of RCW 50.20.045 is a bit ambiguous,⁹⁰ its application by the Washington State

88. WASH. REV. CODE § 50.20.060 (1970) makes one discharged for "misconduct connected with his work" ineligible for benefits. Prior to the passage of the 1969 Garnishment Act, by directive from the state headquarters, the Washington State Employment Security Department had interpreted "misconduct" to include discharges because of wage garnishment problems. The Department would take statements from the applicant and his former employer to determine the reason for the termination, and if it were determined that the employee was fired because of creditor problems, he would be denied statutory benefits. The Washington courts have never interpreted the "misconduct" section; the Department employed the test for misconduct stated by the Wisconsin court in *Boynton Cab Co. v. Neubeck*, 237 Wis. 249, 296 N.W. 636 (1941). Telephone interview with Mr. Willard Cogdill, Washington State Employment Security Department, August 5, 1970.

89. WASH. REV. CODE § 50.20.045 (1970). WASH. REV. CODE § 7.33.160 (1970) prohibits the discharge of employees whose wages have been garnished on fewer than three separate indebtednesses during a twelve month period. See note 78 and accompanying text, *supra*.

90. Several possible interpretations could be made of the section as it now stands. First, it is arguable that the Legislature intended simply to clarify the status of employees discharged because of garnishments, with relation to eligibility for unemployment compensation. Under this interpretation, WASH. REV. CODE § 50.20.045 (1970) is merely declaratory of rights created by WASH. REV. CODE § 7.33.160, the employee discharge provision. WASH. REV. CODE § 7.33.160 makes it clear that an employee who has been garnished on fewer than three separate debts in one year, and has been discharged because of garnishment, has been wrongfully discharged. Under previously existing law, an applicant for unemployment benefits could be turned down if he had been discharged for misconduct. An employee wrongfully discharged cannot be said to have been discharged for cause, thus WASH. REV. CODE § 50.20.045 really adds nothing which was not already declared by WASH. REV. CODE § 7.33.160.

A totally undesirable interpretation of WASH. REV. CODE § 50.20.045 is also possible. WASH. REV. CODE § 50.20.045 arguably preserves the misconduct definition previously applied to the eligibility statute (see note 88, *supra*), and declares that benefits may still be withheld from discharged employees except in those cases coming under WASH. REV. CODE § 7.33.160. To adopt this view of the provision would perpetuate the attitude that indebtedness is a sign of moral inadequacy (an attitude making little sense in an era of widespread use of consumer credit), and would run counter to the prevailing spirit of reform which runs through the remainder of the Act, a spirit expressed in numerous provisions designed to allow the debtor to maintain a reasonable standard of living while he pays his debts.

The Washington State Employment Security Department, however, treats WASH. REV. CODE § 50.20.045 as a flat ban on denials of benefits to workers discharged for debt problems. By itself, WASH. REV. CODE § 50.20.045 could not be read in a manner which would render the "subject to RCW 7.33.160" language utterly meaningless. Perhaps the Department has interpreted the section to be a policy declaration by the Legislature that discharge for debt problems is no longer "misconduct" within the meaning of WASH. REV. CODE § 50.20.060 (1970), and that the previous interpretation of that statute (see note 88, *supra*) should be abandoned.

The Legislature should amend section 35 to clarify its intent, and it is recommended that the Department's policy should be clearly adopted as the statutory language.

Employment Security Department, which administers the unemployment compensation fund, has been consistent with the most laudable spirit of reform which permeates the entire 1969 Act. The Department treats all applicants discharged from their jobs because of garnishments as eligible for unemployment benefits, without regard for the number of garnishments involved,⁹¹ recognizing that it is not the business of the state to punish persons who encounter debt problems. Considering the massive extent of the practice of "selling credit" in this country, particularly to low income wage earners,⁹² it should come as no surprise that many persons will be "sold" into a debt position they are unable to manage. The *Empirical Study's* admonition, "A debtor should not be treated as an unscrupulous deadbeat, but rather as a casualty of our credit economy,"⁹³ is a sound credo for all consumer credit reform legislation. The inclusion of RCW 50.20.045 in the 1969 Garnishment Act and its administration by the state indicate an encouraging trend toward reform of not only specific laws but also the underlying philosophy behind creditor-debtor laws generally.

V. REMEDIES FOR WRONGFUL GARNISHMENT

The remedy for wrongful garnishment is recovery of the amount garnished, other damages resulting from the wrongful garnishment, and reasonable attorney's fees.⁹⁴ While the former garnishment statutes required a bond in all prejudgment garnishments involving more than \$300,⁹⁵ the 1969 Act requires the posting of a garnishment bond only in garnishments brought in superior court.⁹⁶ While it is quite fitting that prejudgment garnishments brought in superior courts, where the amounts involved are substantial,⁹⁷ should not be issued without the

91. This procedure is pursuant to a directive issued by Employment Security Department officials. Telephone interview with Mr. Willard Cogdill, Washington State Employment Security Department, in Seattle, August 5, 1970.

92. See W. MAGNUSON & J. CARPER, *THE DARK SIDE OF THE MARKETPLACE* 91 (1968).

93. *Empirical Study*, *supra* note 1, at 793.

94. *Olson v. National Grocery Co.*, 15 Wn. 2d 164, 130 P.2d 78 (1942). A showing that the garnishment was wrongfully sued out is sufficient to complete the cause of action for wrongful garnishment; no showing of malice or lack of probable cause is necessary. *Id.*

95. Ch. 95, § 2 [1965] Wash. Sess. Laws (repealed 1969).

96. WASH. REV. CODE § 7.33.020 (1970).

97. The superior courts of the State of Washington have jurisdiction over disputes involving amounts in excess of \$300. WASH. REV. CODE § 2.08.010 (1955). However, since

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posting of a bond, the omission of the bond requirement from the justice courts, where the overwhelming majority of garnishments are brought,⁹⁸ is a curious anomaly. Although the number of prejudgment writs of any type now issued is quite small, there is still good reason for the law to require the posting of a garnishment bond in any case in which the extraordinary remedy of prejudgment garnishment is employed, to insure that the defendant has a fund out of which to recover in the event that the plaintiff does not obtain judgment in the underlying action.⁹⁹ Section 34 of the 1969 Act provides that, in cases in which prejudgment wage garnishment has been issued and where judgment in the underlying action does not favor the plaintiff, the defendant shall have cause of action for damages against the plaintiff.¹⁰⁰ The *Empirical Study* stated that the provision for such private consumer causes of action is of little significance, since few low-income consumers have the desire, or the necessary resources to hire an attorney to seek relief on such a small claim,¹⁰¹ and few attorneys would be willing to handle the relatively small claims involved. The provision

the justice courts have jurisdiction of disputes involving amounts up to \$1,000, few creditors, except in very large suits, will seek prejudgment garnishments in Superior Court. WASH. REV. CODE § 3.20.020(1)(a) (1970). It will therefore be a rare occasion when a debtor whose property is garnished prior to judgment will be protected by a plaintiff's bond.

98. *Empirical Study*, *supra* note 1, at 777.

99. Consider the following comment on the need for a bond in *ex parte* injunction proceedings:

The injunction bond appears to be the result of the interaction of two major competing considerations. On the one hand is the traditional reluctance to penalize a plaintiff for resorting to the judicial process or to make him pay a price for his remedy. On the other is the extreme caution which often permeates judicial proceedings and is reflected in their elaborate safeguards—the apprehension of a rash result or a judgment rendered after inadequate deliberation. Anticipatory relief in the form of an interlocutory judicial directive which stakes the dignity and authority of the court on a decision made without extensive presentation of the facts or opportunity for argument seems inconsistent with this established principle.

Note, *Interlocutory Injunctions and the Injunction Bond*, 73 HARV. L. REV. 333, 336 (1959). Prejudgment garnishment is an “unusual anticipatory remedy” not unlike an *ex parte* injunctive order in that it is granted after minimal consideration of factual issues and without full argument, and by analogy the necessity for requiring a protective device such as a bond should be evident.

100. Ch. 264, § 34 [1969] Wash. Laws, 1st Ex. Sess. As adopted in 1969, this section applied only to prejudgment wage garnishments. Since the only prejudgment writs issued, in Seattle at least, since *Sniadach* were against assets other than wages, the 1970 Legislature amended this section by deleting the words “of wages” thus making the wrongful garnishment remedy available to any defendant whose property is wrongfully garnished prior to judgment. Ch. 61, § 4, [1970] Wash. Laws, 1st Ex. Sess., WASH. REV. CODE § 7.33.340 (1970).

101. *Empirical Study*, *supra* note 1, at 778.

for a private cause of action is therefore not an effective remedy to the consumer whose property has been garnished wrongfully. It would seem that the only effective statutory remedy for wrongful garnishment would require a garnishment bond in *all* prejudgment garnishments and provide for the release of the bond upon a judgment for the plaintiff or an automatic forfeiture of the bond upon a judgment for the defendant in the underlying action. Such a provision would enable a defendant to immediately recover damages without follow-up litigation which, after an attorney is compensated, yields a net loss to the debtor whose property has been wrongfully garnished. Providing an automatic bond forfeiture would more equitably balance the creditor interest in obtaining prejudgment relief in exceptional cases and the debtor interest in protection against and redress for abuses of this extraordinary legal procedure.

CONCLUSION

The Washington Garnishment Act of 1969, as amended, represents a significant restructuring of the process of garnishment in the Washington courts. The act responds favorably to the chief problems and abuses which had developed under previous laws relating to the garnishment process. In the area of prejudgment garnishment, the area in which the most serious abuses had been observed, the Washington Act appears to restrict prejudgment garnishment to its proper role as an extraordinary remedy. Except for its possibly unconstitutional allowance of prejudgment garnishment against "non-residents," the prejudgment garnishment provision affords wage earners the procedural due process declared to be mandatory in *Sniadach*.

The Washington Act has also made significant reforms in the areas of wage exemptions and employee discharges. In both areas the provisions of the Washington Act are more restrictive on garnishments, and generally more progressive than the minimum national standards established in the federal Consumer Credit Protection Act. The Washington Act also insures that a debtor who does lose his job because of garnishment will be permitted to receive unemployment compensation benefits if he is otherwise eligible.

The 1969 Act and its 1970 amendments do not cure all the problems which surround the garnishment process, however. The Act provides

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no real remedy for wrongful garnishment, and by inadequately resolving the problem of the limited duration of the writ, it continues the administrative inconveniences inherent in a writ which does not remain in effect for a sufficient length of time to pick up an entire judgment obligation. On the major issues facing it, however, the Legislature has brought this area of creditor-debtor law more closely into harmony with the realities of the twentieth century credit economy, and has removed much of the inequity which caused the former Washington garnishment law to be justifiably condemned as "the modern equivalent of a debtor's prison."¹⁰²

102. *Empirical Study*, *supra* note 1, at 793.